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OFFICE OF
INSURANCE COMMISSIONER

In the Matter of)

PROGRESSIVE CLASSIC)
INSURANCE COMPANY and)
PROGRESSIVE NORTHWESTERN)
INSURANCE COMPANY,)

Respondents.)

No. D07-188

**CONSENT ORDER
IMPOSING A FINE**

COMES NOW the Insurance Commissioner of the State of Washington, pursuant to the authority provided in RCW 48.01.020, RCW 48.02.080, and RCW 48.05.185, and having reviewed the official records and files of the Office of the Insurance Commissioner, makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT:

1. Progressive Classic Insurance Company and Progressive Northwestern Insurance Company (collectively referred to herein as "Progressive"), members of the Progressive Insurance Group, are authorized to conduct the business of insurance in Washington State and, therefore, are subject to Title 48 RCW and Chapter 284 WAC.
2. RCW 48.19.040(6) provides that no insurer shall make or issue an insurance contract or policy except in accordance with its filing then in effect.
3. From approximately October 20, 2005 through April 27, 2006, Progressive charged premiums for uninsured motorist bodily injury ("UMBI") coverage and uninsured motorist property coverage ("UMPD") that differed from the rates filed with, and approved by, the OIC. Under the rating plan approved by the OIC, premiums for these coverages were to vary by territory; however, under the rating plan actually implemented by Progressive, the premiums charged to consumers for these coverages did not vary by territory.
4. Progressive determined that 62,772 policies were issued with incorrect premiums. More specifically, 28,603 of the incorrectly issued policies resulted in consumers being overcharged premium in the amount of \$341,645. Meanwhile, 26,596 of the incorrectly



issued policies resulted in consumers being undercharged premium in the amount of \$381,488. Lastly, 7,573 of the incorrectly issued policies resulted in no difference in the rates charged to the consumers.

5. On or about November 14, 2005, Progressive entered into Consent Order No. D05-392. This Consent Order imposed a fine of \$10,000, of which \$5,000 (half the total amount) was suspended upon the condition that Progressive commit no further violations of the statutes and/or regulations that were the subject of that Consent Order, which included RCW 48.19.040(6), for a period of two years. In this case, Progressive violated RCW 48.19.040(6) and said violations occurred during the aforementioned two-year suspended period. As such, the \$5,000 suspended under Consent Order No D05-392 is immediately due and payable.

6. Progressive has remedied the programming/rating errors at issue in this matter.

7. Progressive explained the rate errors to the consumers. Progressive also refunded to consumers the \$341,645 in overcharges.

8. Progressive self-reported the violations. Progressive was candid and cooperative with the OIC during the investigation and resolution of this matter.

CONCLUSIONS OF LAW:

1. Progressive violated RCW 48.19.040(6) by using rates that differed from the rates that were filed and approved by the OIC.

2. RCW 48.05.185 authorizes the Insurance Commissioner to impose a fine in lieu of or in addition to the suspension or revocation of an insurer's certificate of authority.

CONSENT TO ORDER:

1. Progressive consents to entry of this Order, and acknowledges its duty to comply fully with all applicable laws and regulations of the State of Washington. Progressive knowingly and voluntarily waives further administrative or legal challenge to the actions taken, or to be taken, by the Insurance Commissioner, related to the subject matter of this Order. The Insurance Commissioner consents to resolve this matter on the condition that Progressive pay the fine as set forth below, and on the condition that Progressive carry out the provision of, and fully comply with, the Compliance Plan set forth in Exhibit A.

2. By agreement of the parties, the Insurance Commissioner will impose a collective fine in the amount of \$100,000 on Progressive and suspend half of that—\$50,000—for two years from the date of entry of this Order, on the condition that:

- a. Progressive commits no further violations of the statutes and regulations which are the subject of this Order during the two-year

suspension period. If Progressive commits further violations of the statutes and regulations which are the subject of this Order during the two-year suspension period, then the entire suspended amount of the fine—\$50,000—will become immediately due and payable, together with any such other and further fines and sanctions levied because of any such additional violation.

- b. Progressive will abide by the terms and conditions of the Compliance Plan attached to and made a part of this Order for a period of two years. Failure to materially comply with the provisions of the Compliance Plan shall constitute a per se violation of the laws of the State of Washington and may subject Progressive to such further enforcement action as the Commissioner deems necessary under the circumstances.
 - c. The unsuspended fine must be paid, in full, within thirty days of the date of entry of this Order. Failure to pay the fine and to comply with the stated conditions shall constitute grounds for revocation of Progressive's certificate of authority and in a civil action brought on behalf of the Insurance Commissioner by the Attorney General of the State of Washington.
3. Progressive agrees to immediately pay the \$5,000 suspended fine amount pursuant to Consent Order No. D05-392.

Executed this 7th day of August, 2007.

PROGRESSIVE CLASSIC INSURANCE COMPANY
and PROGRESSIVE NORTHWESTERN INSURANCE
COMPANY

By: Dane A. Shrallow
Dane A. Shrallow
Secretary

Pursuant to the foregoing Findings of Fact, Conclusions of Law, and Consent to Order, the Insurance Commissioner orders as follows:

ORDER:

1. Progressive is ordered to pay a fine in the amount of \$100,000 (one-hundred thousand dollars). Of this amount, half, or \$50,000 (fifty thousand dollars), will be

Consent Order Imposing a Fine

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suspended for two years from the date of entry of this Order, upon the following conditions:

- a. Progressive commits no further violations of the statutes and regulations which are the subject of this Order during the two-year suspension period. If Progressive commits further violations of the statutes and regulations which are the subject of this Order during the two-year suspension period, then the entire suspended amount of the fine—\$50,000—will become immediately due and payable, together with any such other and further fines and sanctions levied because of any such additional violation.
 - b. Progressive will abide by the terms and conditions of the Compliance Plan attached to and made a part of this Order for a period of two years. Failure to materially comply with the provisions of the Compliance Plan shall constitute a per se violation of the laws of the State of Washington and may subject Progressive to such further enforcement action as the Commissioner deems necessary under the circumstances.
 - c. The unsuspended portion of the fine must be paid, in full, within thirty days of the date of entry of this Order. Failure to pay the fine and to comply with the stated conditions shall constitute grounds for revocation of Progressive's certificate of authority and in a civil action brought on behalf of the Insurance Commissioner by the Attorney General of the State of Washington.
2. Progressive is ordered to immediately pay the \$5,000 suspended fine amount imposed under, and pursuant to, Consent Order No. D05-392.

Executed this 9th day of AUGUST, 2007.

MIKE KREIDLER
Insurance Commissioner

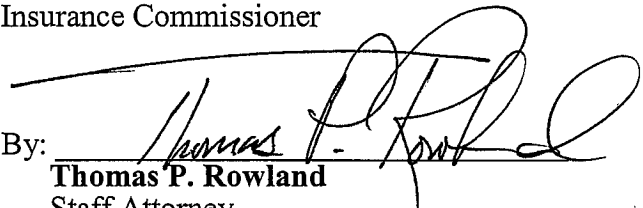
By: 
Thomas P. Rowland
Staff Attorney
Legal Affairs Division

EXHIBIT A - COMPLIANCE PLAN

A. PURPOSE OF AND CONSIDERATION FOR THE COMPLIANCE PLAN.

Progressive Classic Insurance Company and Progressive Northwestern Insurance Company (collectively referred to herein as "Company") enters into this Compliance Plan ("Plan") with the Washington State Office of Insurance Commissioner ("OIC") to promote compliance by the Company with the requirements of the laws and regulations of the State of Washington. Concurrently with the execution of the Plan, the Company is also entering into a Consent Order with the OIC. The Plan is attached to the Consent Order as "Exhibit A" and is fully incorporated into the Consent Order. Moreover, the Company's obligations under this Plan are made a part of the Consent Order and constitute obligations under the Consent Order as though this Plan and the Company's obligations under it were fully set forth in the Consent Order.

B. TERM OF THE COMPLIANCE PLAN.

The effective date of this Plan shall be the date of entry of the Consent Order, on which date this Plan shall become final and binding.

C. THE COMPLIANCE PLAN.

1. Internal Audit.

- a. **Information to OIC:** The Company will conduct two annual audits. Within thirty (30) days of the effective date of this Plan, the Company shall establish an annual audit plan and schedule with regard to the violations included in the Consent Order, and shall forward a written copy of the plan and schedule to Christine Tribe, OIC Legal Affairs Division, Insurance 5000 Building, P.O. Box 40255, Olympia, WA 98504. Copies of each internal audit report on the two annual audits to be performed during the period of this Plan shall also be provided to OIC Legal Affairs Division within thirty days of the report being issued. Reports shall be issued no later than thirty days following the reporting period.
- b. **Internal Audit Obligations:** The Company shall provide its internal audit unit or division(s) with the Consent Order and shall direct its internal audit personnel to include the areas of violation in the annual internal audits conducted pursuant to this Plan.
- c. **Audit Scope:** Each annual audit shall encompass at least fifty (50) files for each of the violations listed in the Consent Order. If a violation is common to more than one line of business, the audit must include fifty (50) files for each line of

business found to be in violation. Each file audited must involve Washington insureds or beneficiaries.

- d. **Correction of Exceptions:** Any exception or deficiency identified by the internal audits conducted pursuant to this Plan shall be corrected. The Company agrees to advise OIC within sixty (60) days of the audit report of any corrective measures contemplated to address any such exceptions or deficiencies or any other areas requiring correction. The OIC shall then review these measure(s) and notify the company of any comments associated thereto. Unless the OIC requests modifications to the proposed corrective measure(s), the Company shall have sixty (60) days from the end of the OIC's review period to implement the measure(s). However, should the Company need longer than sixty (60) days to correct any exception or deficiency, it may contact the OIC Legal Affairs Division and request an extension to the sixty (60) day requirement.

D. MISCELLANEOUS

1. **Authority to Enter Plan:** The Companies give express assurance that under applicable laws, regulations and where applicable, their Articles and By-Laws, they have the authority to comply fully with the terms and conditions of this Plan, and that they will provide written notification to the other parties within ten days of any material change to this authority or of any violation of this Plan.

PROGRESSIVE CLASSIC INSURANCE COMPANY and
PROGRESSIVE NORTHWESTERN INSURANCE COMPANY

By: Dane A. Shrallow
Dane A. Shrallow
Secretary